

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SEP 12 2006

SHERMAN DIVISION

DAVID J. MALAND, CLERK  
BY  
DEPUTY \_\_\_\_\_

BRYAN DEAN HOSKINS

§

VS.

§ CIVIL ACTION NO. 4:03cv131

DIRECTOR, TDCJ-CID

§

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Bryan Dean Hoskins, an inmate confined at the Robertson Unit, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court referred this matter to the Honorable Don D. Bush, United States Magistrate Judge, at Sherman, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the petition be denied and dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law.

See FED. R. CIV. P. 72(b). After careful consideration, the court concludes Petitioner's objections are without merit.

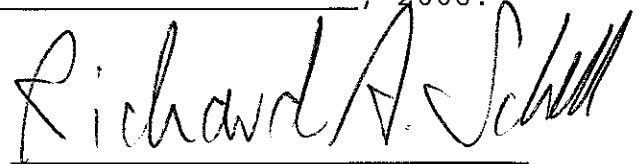
Petitioner complains that the magistrate judge did not determine whether the alleged void prior conviction used to enhance his sentence deprived the trial court of subject matter jurisdiction. However, as the magistrate judge determined, Petitioner has failed to demonstrate that the conviction was void. Further, as the magistrate judge found, Petitioner's challenge to the prior conviction is both waived and procedurally barred. An indictment which relies on a void judgment of conviction to enhance renders the indictment "voidable," but invokes the trial court's jurisdiction once presented. *Ex parte Patterson*, 969 S.W.2d 16, 19-20 (Tex. Crim. App. 1998). The mere presentment of an information to a trial court invests that court with jurisdiction over the defendant, regardless of any defect that might exist in the underlying complaint. *Ramirez v. State*, 105 S.W.3d 628, 630 (Tex. Crim. App. 2003); *Aguilar v. State*, 846 S.W.2d 318, 318 (Tex. Crim. App. 1993). Thus, Petitioner's objections are without merit.

O R D E R

Accordingly, Petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final

judgment will be entered in this case in accordance with the  
magistrate judge's recommendations.

SIGNED this 12<sup>th</sup> day of September, 2006.

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style with a prominent initial "R".

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE